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EXAMINER

ROCHE, TRENTON J

ART UNIT PAPER NUMBER

2193

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/722,576

Applicant(s)

HERNANDEZ, GASPER

Examiner

Trenton J. Roche

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-10 and 13-33 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is responsive to communications filed 7 August 2006.
2. Claims 1-33 are currently pending.

Allowable Subject Matter

3. Claims 5, 6, 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 8, 10, 13, 14, 18, 20-24, 26 and 28-33 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,085,227 to Edlund et al. (hereinafter "Edlund").

Per claims 1, 2, 8, 10, 13, 14, 18, 20-23, 30 and 32:

Edlund discloses:

- the server providing a first web page to said web browser running on said remote terminal, the first web page being configured to accommodate a set of commands that are to be

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contained in a script or program ("the client computer 102 initializing the browser...accessing servers and pages on the internet, including the proxy server computer 104 and the device server computer...waiting for the next input from the user...receipt of a Web Scope command invoked by the user..." in col. 5 lines 47-63. The browser can sent multiple (a set) of commands over time, which are contained in a program queue. Note col. 6 lines 56-62.)

- the server receiving a request, including said set or a version thereof, from said web browser at the remote terminal (transmission of commands from the user to the remote device..." in col. 4 lines 25-26)
- the server doing at least one of checking the syntax of said set and executing said set ("When a command from the user is authorized...the task manager 120 stores these commands...in a priority queue...The command processor 122...polls the queue 126 for input, and receives one command at a time and sends it to the device...for execution." in col. 5 lines 12-29)
- the server providing at least a first version of a second web page to said remote terminal that includes results generated by the check for syntax or execution of said set ("Results and status information from the remote device...are broadcast to all observing users." in col. 5 lines 29-33)

substantially as claimed. Furthermore, the server would compile the web transmission such that the command can be extracted and executed by the device.

Per claims 24, 26, 28 and 29:

Edlund discloses:

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- the server receiving a request from said web browser at the remote terminal to execute said executable file on said server, the server executing said executable file thereby causing said separate system to be tested or manipulated to change operation thereof (“When a command from the user is authorized...the task manager 120 stores these commands...in a priority queue...The command processor 122...polls the queue 126 for input, and receives one command at a time and sends it to the device...for execution.” in col. 5 lines 12-29)
- the server providing at least a first version of a web page to said remote terminal that includes results generated by the execution of said executable file (“Results and status information from the remote device 106 are sent back...by the command processor 122, which ensures that the results and status information are broadcast to all observing users.” in col. 5 lines 29-33. A web page is inherently provided so that the browser users can view the results.)

substantially as claimed. The execution of the file would “bring the file into existence” in memory.

Per claims 31 and 33:

Edlund further discloses the server providing a set of commands to the user, wherein the user submits an edit list of commands as claimed (“a user can control...device specific parameters...” in col. 3 lines 53-54. As the commands are all device specific, the server must indicate to the user what specific commands are available. Consequently, the server would provide only those commands applicable and the user would choose from those.)

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Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 4, 7, 9, 15, 16, 17, 19, 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edlund in view of "Reading CGI Data: url-encoding and the CGI protocol" by Morton.

Per claims 3, 4, 7, 9, 15, 16, 17, 19, 25 and 27:

Edlund discloses a system wherein a user can control a remote device using a browser over the Internet. However, Edlund does not explicitly disclose utilizing a CGI script and extracting a CGI variable corresponding to a method GET or POST. Morton discloses that it was well known in the art at the time the invention was made to use a form in a browser to report variables and point to an executable CGI script along with the specified variables used by the executable script ("If you append a question mark (?) to the url of your script, then any characters after the question mark will be passed to your script..." on pages 1 and 2, section titled "The Query_String and Method Get". Morton discloses the execution of scripts and scripting files, and as the claims offer no particular use of or unique function of the WAMIL scripting language which would indicate any reason a standard script could not be used, the specific use of WAMIL is not given patentable weight.). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a URL with CGI variables during the steps of sending commands to the server of Edlund via the Internet,

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as this would enable utilization of well established Internet standards and allow a user to submit answers to forms and enable the web server to parse and acquire the data associated with the form, as noted on page 1 of Morton.

Edlund further discloses that the plurality of computers are connected by a network comprising either a LAN, WAN, Internet, etc. (col. 2 lines 53-54). Edlund does not explicitly disclose the use of a wireless communications network. Official Notice is hereby taken that at the time the invention was made, the use of wireless communication networks in place of wired networks such as LAN's was well known to one of ordinary skill in the art. Consequently, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a wireless communications network with Edlund as this would enable the computers to have greater flexibility in their location by not requiring them to be wired to a network outlet.

Response to Arguments

8. Applicant's arguments, see pages 8-13 of the remarks have been fully considered but are not persuasive.

Regarding claims 24 and 26:

Applicant argues that the Examiner is giving an unreasonable interpretation to the term "executable" and that Applicant disagrees with the Examiner's assertion that a currently executing program can be directed to execute. In response, the Examiner must reiterate similar arguments, and contends that Applicant is taking too narrow of an interpretation of the claim language. The claim requires receiving a request "to execute said executable file..." To better attempt to show the

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Examiner's interpretation, the Examiner notes that the word processing software currently being used to write this action is an executable file or program. The executable is currently running, and if one were to click on a "Save" or "Print" button, a command or request would be created for the underlying executable "to execute" a certain save or print function. Similarly, in Edlund, the user of the remote system performs some step on the local machine, and a command is sent to the device which directs the executable "to execute" the motion directed by the command (note col. 4 lines 4-12). While the program of Edlund may have been initialized previously, this does not necessarily mean that the program is doing anything, as prior to receiving the first command for execution, it can be in an idle receiving state. Claims 24 and 26 do NOT outline or recite in any fashion that the executable file is NOT running. As such, the Examiner's interpretation of the claim is not inconsistent with one of ordinary skill in the art, and the rejection is proper and maintained.

As a side note, Applicant makes mention that "the Examiner's 'not preclude the possibility' phraseology is akin to the taking of an inherency position." (page 8 of the remarks). The Examiner must admit some confusion in this characterization. While in the instant case it may be reasonable to infer that Edlund discloses a previously initialized program, the Examiner still contends that the claim language of the instant application does not preclude a previously initialized "executable" or program. This is not to say that it is inherent that the program was previously initialized. To say that the language of a patent leaves open the possibility of a certain embodiment is not to say that that certain embodiment is inherently required. As an analogous example to the instant application, if one were to have a claim limitation reciting "the server transmitting said transmittable data..." then the claim language remains sufficiently broad so as to not preclude the possibility that the server may have transmitted that data at some point prior to the transmission step outlined in the claim.

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Because of the language of the claim, there may or may not have been some prior transmission. This is NOT to say that it is inherent that a transmission occurred before.

Regarding claim 1, 2, 8, 10, 13, 14, 18, 20-24, 26 and 28-33:

Applicant states that Edlund does not teach a web page being configured to accommodate a set of commands that are to be contained in a script or program. In response, the Examiner notes Applicant's indication that multiple commands can be sent over an elapsed time on page 11 of the remarks. Even in this instance, the Examiner interprets the multiple commands at being a "set" of commands, and as they are sent via the browser, the web page is accommodating the set of commands. Furthermore, the commands are sent to a program queue as noted in col. 6 lines 56-62. Finally, with reference to the arguments concerning claim 2, the hardware interface interprets the commands for execution in col. 7 lines 48-51. The rejection is proper and maintained.

Regarding claims 3, 4, 7, 9, 15-17, 19, 25 and 27:

Applicant presents arguments relating to those presented above relating to independent claim 1. Those arguments have been addressed; accordingly, the rejection is proper and maintained.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the

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THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trenton J. Roche whose telephone number is (571) 272-3733. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Trenton J Roche
Examiner
Art Unit 2193

TJR



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SUPERVISORY PATENT EXAMINER